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December 17, 1997

BY HAND DELIVERY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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DEC 17 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Ex Parte
PR Docket No. 92-235

Dear Ms. Salas:

This is to provide notice that the undersigned, along with Gary Ruark and Susan Pikrallidas of the American Automobile Association, met today in separate meetings with David Siddall, Legal Advisor to Commissioner Ness, and Karen Gulick, Legal Advisor to Commissioner Tristani. The purpose of these meetings was to discuss AAA's pending Petition for Reconsideration in the above-referenced matter. The attached material was distributed during each meeting.

An original and one copy of this filing is being provided. Please do not hesitate to call should you have any questions regarding this filing.

Sincerely,



Steven F. Morris

Enclosures

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Ms. Magalie R. Salas

December 12, 1997

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cc: David Siddall
Karen Gulick
Gary Ruark
Susan Pikrallidas

AMERICAN AUTOMOBILE ASSOCIATION

Petition for Reconsideration
of Second Report and Order in
PR Docket No. 92-235

December 17, 1997

AAA has a long history of providing emergency services in situations involving a threat to life or property

- AAA provides emergency road service to over 39 million members and responds to over 29 million calls per year -- 80,000 per day.
- Approximately 30 percent of AAA's service calls -- 8 million per year -- involve situations in which there an immediate threat to life or property.
- AAA routinely provides service in conjunction with local and state public safety officials, particularly during peak traffic periods and during mass emergency situations, such as earthquakes, hurricanes and blizzards
 - The general public benefits from these services, not just AAA members.
 - Many local safety officials have expressed support for AAA's position in this proceeding.
- AAA depends on uninterrupted access to radio frequencies to dispatch tow trucks to the scene of an emergency.

The “Refarming Order” eliminated AAA’s ability to control assignment of Auto Emergency frequencies

- Prior to the *Refarming Order*, there were 20 different private land mobile services, each with its own frequency coordinator and its own eligibility requirements; AAA was the coordinator for the Auto Emergency frequencies.
- The *Refarming Order* consolidated the private land mobile services into two broad pools: Public Safety and Industrial/Business.
- Each of the coordinators in the Industrial/Business pool is permitted to assign any frequency in the pool, and there is no ability to block an assignment made by another coordinator.
- The Commission allowed three “quasi-public safety” services (Railroads, Power and Petroleum) within the Industrial/Business Pool to retain control over coordination.
- The Commission placed AAA in the Industrial/Business pool, but did not provide AAA with the same protections as the three “quasi-public safety” entities.

**Auto Emergency frequencies require additional protection
within the Industrial/Business Pool**

- Assignment of licenses in the Auto Emergency frequencies by coordinators other than AAA increases the likelihood of harmful interference on those frequencies, which in turn will lead to delays in AAA's ability to respond in emergency situations.
- Granting AAA greater control over the assignment of Auto Emergency frequencies will benefit the public generally, not just AAA members.
 - Auto emergencies can affect large numbers of commuters and others working near roads and highways.
 - Some Auto Emergency frequencies are used by independent tow truck operators.
- AAA is seeking the same degree of control over coordination as other non-governmental entities that serve significant safety needs (*i.e.*, Railroads, Petroleum and Power); AAA no longer is seeking placement of the Auto Emergency frequencies in the Public Safety Pool as it had previously suggested in its Petition for Reconsideration.

**Auto Emergency services should be treated the same as the
quasi-public safety services identified
in the Refarming Order**

- AAA has all the characteristics that the Commission relied on to justify special treatment for Railroads, Power and Petroleum.
 - AAA “responds to emergencies that could impact hundreds or even thousands of people.”
 - Any failure in AAA’s “ability to communicate by radio could have severe consequences on public welfare.”
 - In emergencies, AAA’s operations “can take on an almost quasi-public safety function.”
- In addition, while these other entities primarily use spectrum to support for-profit business operations, AAA is a not-for-profit entity whose primary mission is providing emergency road services.

**The 1997 Balanced Budget Act supports similar treatment of
Auto Emergency services and Railroad, Power and
Petroleum services**

- Congress recognized the valuable public service provided by AAA and classified auto emergency services as “public safety radio services” for purposes of the exemption from auctions contained in the 1997 Budget Act.
- Auto emergency is the only “public safety radio service” identified by Congress that is in the Industrial/Business and has no control over coordination of frequencies.
- Failure to grant AAA the same control over coordination as Railroads, Petroleum and Power would result in unequal treatment for entities identified by Congress as being similarly situated.

Interim relief is needed to prevent irreparable harm to those who rely on AAA if an Order on Reconsideration is not imminent

- Interim relief is needed because it will be difficult, if not impossible, to remove licensees that are granted access to the Auto Emergency frequencies without AAA's consent, even if the Commission ultimately grants AAA's Petition for Reconsideration.
- The requested form of interim relief would be a Bureau order requiring AAA's consent to all assignments of Auto Emergency frequencies pending a ruling on AAA's Petition for Reconsideration -- this would do nothing more than return AAA to the *status quo* prior to the effective date of the new rules.
- The interim relief requested would protect AAA while still promoting the goals of the Commission's refarming initiative because all other frequencies in the Industrial/Business pool would be available as before, and Auto Emergency frequencies would still be available where no interference would be caused to auto clubs now using those frequencies.